

House Bill 970 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 154th, Burkhalter of the 50th, O'Neal of the 146th, Golick of the 34th, Smith of the 129th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for a partial exemption for a limited period of time with respect to state sales and use taxes applicable to the liquid propane gas commodity sold and delivered primarily for residential heating purposes and to charges for the natural gas commodity billed for residential use; to provide for legislative findings; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the administrator of Part 2 of Article 15 of Chapter 10 of Title 10 of the Official Code of Georgia Annotated, the "Fair Business Practices Act," as amended; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing; to ratify an executive order of the Governor suspending the collection of such taxes; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The Executive Order of the Governor dated December 19, 2005, and filed in the official records of the Office of the Governor as Executive Order 12.19.05.01 which suspended the collection of state sales and use taxation in part as that tax applies to the liquid propane gas commodity sold and delivered primarily for residential heating purposes and to charges for the natural gas commodity for residential use is ratified by the General Assembly of Georgia.

SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new Code section immediately following Code Section 48-8-14, to be designated Code Section 48-8-15, to read as follows:

"48-8-15.

(a) The General Assembly finds that:

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1 (1) Liquid propane gas and natural gas are essential commodities used by all Georgians
2 to heat their homes;

3 (2) There has been a substantial rise in the prices of liquid propane gas and natural gas
4 since adjournment of the 2005 regular session of the General Assembly such that the
5 prices for liquid propane gas and natural gas for 2006 are projected to far exceed the 2005
6 prices for these commodities;

7 (3) The significant increase in liquid propane gas and natural gas prices has burdened
8 and will continue to burden financially all Georgians who must use these commodities
9 to heat their homes during the winter months; and

10 (4) The significant increase in liquid propane gas and natural gas prices for the winter
11 months of 2006 will result in a windfall to the state in the form of surplus sales and use
12 taxes on these commodities.

13 (b)(1) For the time period commencing as specified in the Executive Order of the
14 Governor dated December 19, 2005, and filed in the official records of the Office of the
15 Governor as Executive Order 12.19.05.01 and the time period concluding at the end of
16 the third completed billing cycle ending on or before April 30, 2006, state sales and use
17 taxation pursuant to Code Section 48-8-30 as that tax applies to charges for the natural
18 gas commodity billed for residential use shall be governed by the provisions of this Code
19 section notwithstanding any provisions of Code Section 48-8-30, or any other law, to the
20 contrary.

21 (2) For the time period commencing as specified in the Executive Order of the Governor
22 dated December 19, 2005, and filed in the official records of the Office of the Governor
23 as Executive Order 12.19.05.01 and concluding on the last moment of March 31, 2006,
24 state sales and use taxation pursuant to Code Section 48-8-30 as that tax applies to sales
25 of the liquid propane gas commodity when sold and delivered primarily for residential
26 heating purposes shall be governed by the provisions of this Code section
27 notwithstanding any provisions of Code Section 48-8-30, or any other law, to the
28 contrary.

29 (c) Sales or use of fuels described in subsection (b) of this Code section shall be exempt
30 from the first 2 percent of the 4 percent state sales and use tax imposed under this chapter
31 and shall be subject to the remaining 2 percent of the 4 percent state sales and use tax
32 imposed under this chapter. The temporary and partial sales and use tax exemption
33 provided for in this subsection shall not apply to local sales and use taxes levied and
34 imposed in an area consisting of less than the entire state, however authorized, including,
35 but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or
36 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as

1 amended, known as the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by
2 or pursuant to Article 2, 2A, 3, or 4 of Chapter 8 of this title. Such local taxes shall remain
3 applicable to sales of such fuels.

4 (d) The tax relief required under this Code section with respect to charges for the natural
5 gas commodity billed for residential use shall be credited or otherwise reflected on a
6 consumer's natural gas bill as soon as practicable and shall apply only with respect to
7 charges billed for the natural gas commodity and not for other enumerated charges.

8 (e) The failure of the dealer to pass through to the purchaser of any of the fuels described
9 in subsection (b) of this Code section the amount of the tax exemptions, decreases, or
10 reduction under this Code section shall constitute an unfair or deceptive act or practice
11 under Part 2 of Article 15 of Chapter 10 of Title 10, the 'Fair Business Practices Act,' as
12 amended, and shall be subject to enforcement by the administrator of said Part 2 in the
13 same manner as any other act or practice constituting a violation of said Part 2 and subject
14 to the same remedies and penalties as any other act or practice constituting a violation of
15 said Part 2.

16 (f) The commissioner is authorized to prescribe forms and promulgate rules and
17 regulations deemed necessary in order to administer and effectuate this Code section."

18 SECTION 3.

19 This Act shall become effective upon its approval by the Governor or upon its becoming law
20 without such approval.

21 SECTION 4.

22 All laws and parts of laws in conflict with this Act are repealed.